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OFFICE OF PETITIONS

In re Patent No. 6,338,210 :
Issue Date: January 15, 2002 :
Application No. 09/377,929 : DECISION ON PETITION
Filed: August 20, 1999 :
Title: Removal of Accumulated Material :

This is a decision on the "RENEWED REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.377", filed May 2, 2011.

The petition is **DISMISSED**.

Patentee is given TWO (2) MONTHS to file a request for reconsideration of this decision under 37 CFR 1.377. Any such request for reconsideration should include a cover letter entitled "REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.377".

The above-identified patent issued on January 15, 2002. Therefore, the window for paying the second maintenance fee extended from January 15, 2009 to July 15, 2009 without surcharge, and from July 16, 2009 to January 15, 2010, with surcharge. No maintenance fee and surcharge having been received in full on or before January 15, 2010, the patent expired on January 16, 2010. Patentee filed a petition under 37 CFR 1.377 on July 12, 2010. However, the petition was dismissed in a decision mailed on September 30, 2010. The petition was dismissed without being considered on the merits because the petition did not include the petition fee in full.

Patentee filed a renewed petition on December 6, 2010, this time including the balance of the petition fee. However, the petition was dismissed in a decision mailed on February 28, 2011. The petition was dismissed because petitioner did not establish that he mailed the

maintenance fee to the correct address. Rather, petitioner mailed the maintenance fee to an old address on October 8, 2009. However, that address stopped discontinued receiving maintenance fees effective November 21, 2007.

With the instant request for reconsideration, petitioner argues that the Post Office did not return his maintenance fee until April 8, 2010. According to petitioner, had the US Post Office timely returned his maintenance fee, petitioner could have timely resubmitted the maintenance fee to the correct address.

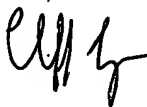
Petitioner's argument has been considered, but is not persuasive. 37 CFR 1.377 requires a showing that petitioner timely and properly mailed the maintenance fee. Here, petitioner admits that he did not mail the maintenance fee to the proper address. Rather, petitioner's argument seems to address the cause of the delay at issue (i.e. whether the delay was unintentional and/or unavoidable). Such an argument should be addressed by filing a petition to reinstate the expired patent pursuant to either 37 CFR 1.378(b) (unavoidable delay) or 37 CFR 1.378(c) (unintentional delay). Forms for both petitions are enclosed for petitioner's convenience.

Further correspondence should be addressed as follows:

By mail: Mail Stop Petitions
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By FAX: (571)273-8300
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Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3207.



Cliff Congo
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Enc: PTO/SB/66 (3 pages)
 PTO/SB/65 (4 pages)
 Privacy Act Statement (1 page)